

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ENZO BIOCHEM, INC., *et al.*,

Plaintiffs,

-v-

AFFYMETRIX, INC.,

Defendant.

AFFYMETRIX, INC.,

Plaintiff,

-v-

ENZO BIOCHEM, INC., *et al.*,

Defendants.

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No. 04 Civ. 1555 (RJS)
ORDER

No. 03 Civ. 8907 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

The Court is in receipt of the parties' joint proposed schedule for expert and damages discovery and pretrial submissions for consolidated trial in the above-referenced cases. The Court adopts the parties' schedule with two changes: (1) the Court will conduct a pretrial conference on Thursday, May 1, 2014 at 10:00 a.m., and (2) trial and jury selection shall commence on Monday, May 12, 2014 at 9:00 a.m.

Accordingly, IT IS HEREBY ORDERED THAT the parties shall comply with the attached schedule for expert and damages discovery and pretrial submissions.

SO ORDERED.

DATED: January 10, 2014
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

Enzo v. Affymetrix (S.D.N.Y. No. 04 Civ. 1555)

Affymetrix v. Enzo (S.D.N.Y. No. 03 Civ. 8907)

Schedule for Expert and Damages Discovery and Pretrial Submissions

- a. The parties will exchange requests for discovery pertaining to damages issues by January 13, 2014, and will meet and confer on their respective requests by January 16, 2014.
- b. Any disputes about the scope of damages discovery requests shall be presented to the Court by January 22, 2014.
- c. Any additional documents or interrogatory responses made in response to the requests for discovery pertaining to damages issues shall be provided by each party to the other party by February 6, 2014.
- d. Any disputes about the production of additional documents or interrogatory responses shall be presented to the Court by February 12, 2014.
- e. Party depositions pertaining to damages issues shall be completed by March 13, 2014.
- f. Third-party discovery pertaining to damages issues shall be completed by March 20, 2014.
- g. All expert disclosures on all issues, including reports, production of underlying documents, and depositions shall be completed pursuant to the following deadlines:
 - i. Opening expert reports on issue(s) for which a party bears the burden of proof shall be served no later than March 20, 2014.
 - ii. Rebuttal expert reports shall be served no later than April 7, 2014.
 - iii. Expert depositions shall be completed no later than April 14, 2014.
- h. The joint pre-trial order shall be completed and submitted pursuant to the following deadlines:
 - i. The parties shall exchange proposed pre-trial orders and associated documents (*i.e.* the items specified in Judge Sullivan's Individual Practices, Sections 3(A) and (B)(i), (iv)) by April 7, 2014. Initial objections, responses, counter-designations, etc. shall be served by April 14, 2014, and the parties are to meet and confer thereafter to attempt to resolve the objections by April 18, 2014.
 - ii. The parties shall submit a joint pre-trial order and the items specified in Judge Sullivan's Individual Practices at Sections 3(A) and 3(B)(i), (iv) by April 21, 2014, including any objections or oppositions specified in Section 3(D)(i), (iii).
- i. Any motions *in limine* and motions to exclude expert testimony shall be served and filed by April 17, 2014, with oppositions due on April 24, 2014, and replies due on April 28, 2014.
- j. The Court will conduct a pre-trial conference on Thursday, May 1, 2014 at 10:00 a.m.

Enzo v. Affymetrix (S.D.N.Y. No. 04 Civ. 1555)

Affymetrix v. Enzo (S.D.N.Y. No. 03 Civ. 8907)

- k. Counsel must meet for at least one hour to discuss settlement not later than April 18, 2014.
1. Trial and jury selection shall commence on May 12, 2014 at 9:00 a.m. in Courtroom 905 of the Thurgood Marshall United States Courthouse. The parties have conferred and Enzo's present best estimate of the length of trial is 7-10 days, whereas Affymetrix's present best estimate of the length of trial is 6-8 days.